

Greg Dain/R1/USEPA/US  
04/22/2004 06:03 PM

To Jane Medeiros Friedman  
<Jane.Medeiros.Friedman@ci.new-bedford.ma.us>  
cc  
bcc  
Subject Re: CAFO

Hi Jane,

I'll try to let you know tomorrow if this language is o.k.

Jane Medeiros Friedman <Jane.Medeiros.Friedman@ci.new-bedford.ma.us>



Jane Medeiros  
Friedman  
<Jane.Medeiros.Friedman@ci.new-bedford.ma.us>

To: Greg Dain/R1/USEPA/US@EPA  
cc:  
Subject: CAFO

04/22/2004 05:06 PM

Greg:

Regarding paragraph 9, since the sampling at the site pre-dated 2004, I asked Alan Hanscom to provide more information on the sampling history at the site. I'm not sure if this provides too much detail, but I'm submitting it for your review:

9. On or about April 12, 2000, Respondent initiated geotechnical investigations at the Site and "suspect" soil conditions were identified. Based upon initial chemical analyses, several reportable concentrations (120-day, as defined in the Massachusetts Contingency Plan) were detected and supplemental environmental sampling was performed. PCBs were first detected in a subsurface soil sample collected for geotechnical evaluation at 18 parts per million (ppm). On or about August 18, 2000, PCBs were detected in one sediment sample (also at 18 ppm), triggering a 2-hour MADEP notification requirement under the MCP. Since that time, significant sampling has been performed for a variety of contaminants in site soil, soil gas, groundwater, surface water and wetland sediment. On or about December 20, 2001, the MADEP granted the Site "Special Project Designation Status", pursuant to the provisions of the MCP.

In preparation for the initial site remediation contract for the new Keith Middle School, Respondent conducted additional sampling of soil, fill and organic silt at the Site on or about February 23, 2004. On or about March 9, 2004, Respondent obtained laboratory analytical results of the soil sampling, indicating that PCB's were present at concentrations ranging from non-detect to greater than 50 (ppm). One of the thirty-nine samples exceeded 50 ppm (61.4 ppm). Prior to March 9, 2004, the highest concentration of PCBs detected in any media at the Site was 18 ppm.

Regarding paragraph 19, I would like to include a reference to the public meeting which occurred on or about October 30, 2000. During that meeting the public was advised that McCoy Field was the intended site for the new Keith Middle School and that the design for the school would also address

environmental issues at the site.  
Thanks.

Jane Medeiros Friedman

Jane Medeiros Friedman, Esq.  
Associate Solicitor ~ City of New Bedford  
133 William Street  
New Bedford, MA 02740  
Tel: 508-979-1460  
Fax: 508-979-1515

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Greg Dain/R1/USEPA/US  
04/20/2004 03:55 PM

To Jane Medeiros Friedman  
<Jane.Medeiros.Friedman@ci.new-bedford.ma.us>  
cc  
bcc  
Subject RE: Draft CAFO

FYI. See the message below.

----- Forwarded by Greg Dain/R1/USEPA/US on 04/20/2004 03:55 PM -----



Kimberly Tisa  
04/20/2004 03:52 PM

To: Greg Dain/R1/USEPA/US@EPA  
cc: Deborah Brown/R1/USEPA/US@EPA, Marianne  
Milette/R1/USEPA/US@EPA  
Subject: RE: Draft CAFO

Just received a call from the consultant. He's coming in tomorrow at 2:00pm to meet with me on the draft Work Plan. As such, I don't see getting a final Work Plan until the end of this week or into next week at best.

Kimberly Tisa, PCB Coordinator (CPT)  
USEPA  
1 Congress Street, Suite 1100  
Boston, MA 02114-2023

617.918.1527 (PHONE)  
617.918.0527 (FAX)  
e-mail: tisa.kimberly@epa.gov

Greg Dain

Greg Dain  
04/20/2004 01:43 PM

To: Kimberly Tisa/R1/USEPA/US@EPA, Marianne  
Milette/R1/USEPA/US@EPA, Deborah Brown/R1/USEPA/US@EPA  
cc:  
Subject: RE: Draft CAFO

----- Forwarded by Greg Dain/R1/USEPA/US on 04/20/2004 01:43 PM -----



Jane Medeiros  
Friedman  
<Jane.Medeiros.Friedman@ci.new-bedford.ma.us>

04/20/2004 01:09 PM

To: Greg Dain/R1/USEPA/US@EPA  
cc:  
Subject: RE: Draft CAFO

Greg:

I spoke with Alan Hanscom on Friday. He was trying to finish the draft Work Plan to submit on Friday or at least by today. I have forwarded a copy of the Consent Agreement for internal review and will get back to you soon.

Jane Medeiros Friedman

-----Original Message-----

From: dain.greg@epamail.epa.gov [mailto:dain.greg@epamail.epa.gov]  
Sent: Tuesday, April 20, 2004 9:20 AM  
To: Jane Medeiros Friedman  
Cc: milette.marianne@epamail.epa.gov; tisa.kimberly@epamail.epa.gov;  
Brown.Deborah@epamail.epa.gov  
Subject: Re: Draft CAFO

Jane,

Attached is a draft dated 4/20/04. One of my mangers asked for a minor language change to paragraph 19. Everything else is identical to the last draft I sent you last week.

As far as I know, we are still waiting for the Work Plan. Do you know its status as of today?

Greg

(See attached file: New\_Bedford\_Draft\_CAFO\_04.20.04\_9.15am.wpd)

Greg Dain/R1/USEPA/US  
04/23/2004 09:36 AM

To Jane Medeiros Friedman  
<Jane.Medeiros.Friedman@ci.new-bedford.ma.us>  
cc Marianne Milette/R1/USEPA/US@EPA, Kimberly  
Tisa/R1/USEPA/US@EPA, Deborah  
Brown/R1/USEPA/US@EPA  
bcc  
Subject Re: CAFO 

Jane,

See the attached latest draft of the CAFO.

I have tried to amend paragraph 9 along the lines you suggested, but made it much simpler. I also added a sentence about more recent sample results being in excess of 50 ppm, so it doesn't appear that this whole thing is about one hit above 50 ppm.

I added the October 2000 meeting to paragraph 19.

I understand we are still waiting for Alan Hanscom and Kim Tisa to finalize their discussions/drafting of the Work Plan.



New\_Bedford\_Draft\_CAFO\_04.23.04\_9.30am.wpd

Jane Medeiros Friedman <Jane.Medeiros.Friedman@ci.new-bedford.ma.us>



Jane Medeiros  
Friedman  
<Jane.Medeiros.Friedman@ci.new-bedford.ma.us>

To: Greg Dain/R1/USEPA/US@EPA  
cc:  
Subject: CAFO

04/22/2004 05:06 PM

Greg:

Regarding paragraph 9, since the sampling at the site pre-dated 2004, I asked Alan Hanscom to provide more information on the sampling history at the site. I'm not sure if this provides too much detail, but I'm submitting it for your review:

9. On or about April 12, 2000, Respondent initiated geotechnical investigations at the Site and "suspect" soil conditions were identified. Based upon initial chemical analyses, several reportable concentrations (120-day, as defined in the Massachusetts Contingency Plan) were detected and supplemental environmental sampling was performed. PCBs were first detected in a subsurface soil sample collected for geotechnical evaluation at 18 parts per million (ppm). On or about August 18, 2000, PCBs were detected in one sediment sample (also at 18 ppm), triggering a 2-hour MADEP notification requirement under the MCP. Since that time, significant sampling has been performed for a variety of contaminants in site soil, soil gas, groundwater, surface water and wetland sediment. On or about December 20, 2001, the MADEP granted the Site "Special Project Designation Status", pursuant to the provisions of the MCP.



In preparation for the initial site remediation contract for the new Keith Middle School, Respondent conducted additional sampling of soil, fill and organic silt at the Site on or about February 23, 2004. On or about March 9, 2004, Respondent obtained laboratory analytical results of the soil sampling, indicating that PCB's were present at concentrations ranging from non-detect to greater than 50 (ppm). One of the thirty-nine samples exceeded 50 ppm (61.4 ppm). Prior to March 9, 2004, the highest concentration of PCBs detected in any media at the Site was 18 ppm.

Regarding paragraph 19, I would like to include a reference to the public meeting which occurred on or about October 30, 2000. During that meeting the public was advised that McCoy Field was the intended site for the new Keith Middle School and that the design for the school would also address environmental issues at the site.  
Thanks.

Jane Medeiros Friedman

Jane Medeiros Friedman, Esq.  
Associate Solicitor ~ City of New Bedford  
133 William Street  
New Bedford, MA 02740  
Tel: 508-979-1460  
Fax: 508-979-1515

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:	)	<b><u>EPA DRAFT: 4/20/04</u></b>
	)	
City of New Bedford, Massachusetts	)	Docket No. TSCA-1-2004-0052
	)	
Respondent	)	
	)	

**CONSENT AGREEMENT AND FINAL ORDER**

The Complainant, United States Environmental Protection Agency, Region I ("EPA"), alleges that the City of New Bedford, Massachusetts (the "City" or "Respondent") violated sections of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §§ 2601 *et seq.*, and the Act's implementing regulations, "Polychlorinated Biphenyls ("PCBs") Manufacturing, Processing, Distribution in Commerce and Use Prohibitions," 40 C.F.R. Part 761. EPA and Respondent agree to settlement of this matter through this Consent Agreement and Final Order ("CAFO") without the filing of an administrative complaint, as authorized under 40 CFR § 22.13(b).

The EPA and Respondent agree that settlement of this matter is in the public interest and that entry of this CAFO without litigation is the most appropriate means of resolving this matter.

Therefore, without taking any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the parties, it is hereby ordered and adjudged as follows:

**A. PRELIMINARY STATEMENT**

1. This is an administrative action for the assessment of monetary penalties and other

relief pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), for alleged violations of Section 15 of TSCA, 15 U.S.C. §2614. Section 15(1)(C) states that it shall be unlawful for any person to fail to comply with any rule promulgated under Section 6 of TSCA, 15 U.S.C. §2605.

2. The PCB regulations were promulgated pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e).

3. The PCB regulations “establish prohibitions of, and requirements for, the manufacturing, processing, distribution in commerce, use, disposal, storage, and marking of PCBs and PCB Items.” 40 C.F.R. § 761.1(a).

4. Respondent is a "person" as defined by 40 C.F.R. § 761.3 and as such is subject to TSCA and the regulations promulgated thereunder.

5. Respondent is a political subdivision of the Commonwealth of Massachusetts.

6. Respondent owns and controls real property, which is the subject of this action, and is located in the City of New Bedford, Massachusetts (the "Site"). The property is commonly referred to as McCoy Field, and is located on Hathaway Boulevard. The City of New Bedford acquired the McCoy Field site through a Treasurer's Deed to the City, recorded in the Bristol County Registry of Deeds (S.D.) at Book 849, Page 329, which includes Plat 69, Lots 125-132 and 135-142; and through a Treasurer's Deed to the City, recorded in the Bristol County Registry of Deeds (S.D.) at Book 885, Page 401, which includes Plat 75, Lots 167-174, 177-184, 209-228, 292-342. (Deeds Attached as Attachment 2).



7. In the late 1960s, material that consisted of, among other things, ash, construction and demolition debris, glass and brick, was excavated from a City of New Bedford "burn dump" area located across the street from the Site. At least some portion of this excavated material contained PCBs. The excavated material was stockpiled by Respondent at the Site.

8. In or about 1994, the stockpiled material referenced in paragraph 7, above, was spread out and graded at the Site by Respondent for the purpose of constructing athletic fields. The Site is not currently in use and has now been closed by the Respondent.

9. On or about April 12, 2000, Respondent initiated geotechnical investigations at the Site, which included, among other things, initial chemical analyses and soil sampling. Beginning on or about February 23, 2004, Respondent began conducting more extensive analytical sampling of soil, fill and organic silt at the Site, in preparation for planned excavations required for the installation of underground utilities associated with a public school building Respondent plans to construct at the Site. On or about March 9, 2004, Respondent obtained laboratory analytical results of the sampling, indicating that PCBs were present in soil samples collected along the proposed utility corridor at concentrations ranging from non-detect to greater than 50 parts per million (ppm). One of the thirty-nine samples taken exceeded 50 ppm, i.e. 61.4 ppm. Subsequent sampling has revealed additional analytical results of PCBs in concentrations greater than 50 ppm at the Site. Prior to March 9, 2004, the highest concentration of PCBs detected at the Site was 18 ppm.

10. EPA learned of the facts set forth in paragraphs 7 through 9, above, in March of 2004.

**B. ALLEGATIONS**

11. EPA alleges that, as a result of the activities referenced in paragraphs 7 through 9, above, Respondent violated Section 6(e) of TSCA and the PCB regulations.

12. EPA alleges that in or about 1994, Respondent diluted PCB Remediation Waste (as defined at 40 C.F.R. §761.3) in violation of 40 CFR §761.1(b)(5). Respondent alleges that its dilution of PCB Remediation Waste was inadvertent.

13. EPA alleges that in or about 1994, Respondent improperly disposed of the PCB Remediation Waste referenced in paragraphs 7 through 9, above, and further alleges that Respondent has to date not cleaned up and disposed of the PCB Remediation Waste in accordance with the requirements found at 40 C.F.R. §761.61.

**C. TERMS OF SETTLEMENT**

14. Section 16(a) of TSCA, together with the Civil Monetary Penalty Inflation Rule (40 C.F.R. Part 19), authorize the assessment of a civil administrative penalty of up to \$32,500 per day for each violation. Based on the violations alleged in paragraphs 11 and 13, above, and taking into account the penalty assessment criteria of Section 16(a) of TSCA, EPA has proposed to assess a civil penalty of \$27,500.

15. The provisions of this CAFO shall apply to and be binding on EPA and on Respondent, its officers, directors, successors and assigns.

16. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO. Respondent waives any defenses it might have as to jurisdiction and venue, and, without admitting or denying the factual allegations contained in this CAFO, consents to its terms.

Redacted, non-responsive  
attorney/client privileged  
emails. Rest of email chain is  
responsive and releasable.

EPA  
S@EPA

ment also. Thanks.

PA, Greg

On the order, the address  
ap and plot number, which



Jackie Huggins  
<JHuggins@BETA-Inc.  
com>

03/31/2004 10:56 AM

To: Kimberly Tisa/R1/USEPA/US@EPA  
cc:  
Subject: RE: McCoy Field

Please let me know if you do not receive an attachment with this e-mail.

Thanks,  
Jackie

-----Original Message-----

From: tisa.kimberly@epamail.epa.gov [mailto:tisa.kimberly@epamail.epa.gov]

Sent: Wednesday, March 31, 2004 10:49 AM

To: Jackie Huggins

Cc: Alan Hanscom  
Subject: Re: McCoy Field

Jackie-

There was no attachment to your e-mail. Could you please resend? Thanks so much.

Kimberly Tisa, PCB Coordinator (CPT)  
USEPA  
1 Congress Street, Suite 1100  
Boston, MA 02114-2023

617.918.1527 (PHONE)  
617.918.0527 (FAX)  
e-mail: tisa.kimberly@epa.gov

Jackie Huggins  
<JHuggins@BETA-I nc.com> To: Kimberly Tisa/R1/USEPA/US@EPA  
cc: Alan Hanscom <AHanscom@BETA-Inc.com>  
Subject: McCoy Field  
03/31/2004 10:43  
AM

Attached please find the Order of Conditions for McCoy Field. Note that the front page refers to the project location. Although there is no actual street address at this time, it does list the assessor's map and book & page numbers recorded at the Registry of Deeds.

Jackie



McCoy Field Order of Conditions.pdf



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR**

In the Matter of:	)	<b><u>DRAFT: 3/31/04</u></b>
	)	
City of New Bedford, Massachusetts	)	Docket No. TSCA-1-2004-0052
	)	
Respondent	)	
	)	

**CONSENT AGREEMENT AND FINAL ORDER**

The Complainant, United States Environmental Protection Agency, Region I ("EPA"), alleges that the City of New Bedford, Massachusetts (the "City" or "Respondent") violated sections of the Toxic Substances Control Act ("TSCA), 15 U.S.C. §§ 2601 *et seq.*, and the Act's implementing regulations, "Polychlorinated Biphenyls ("PCBs") Manufacturing, Processing, Distribution in Commerce and Use Prohibitions," 40 C.F.R. Part 761. EPA and Respondent agree to settlement of this matter through this Consent Agreement and Final Order ("CAFO") without the filing of an administrative complaint, as authorized under 40 CFR § 22.13(b).

The EPA and Respondent agree that settlement of this matter is in the public interest and that entry of this CAFO without further litigation is the most appropriate means of resolving this matter.

Therefore, before taking any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the parties, it is hereby ordered and adjudged as follows:

**A. PRELIMINARY STATEMENT**

1. This is an administrative action for the assessment of monetary penalties and other relief pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), for alleged violations of Section 15 of TSCA, 15 U.S.C. §2614. Section 15(1)(C) states that it shall be unlawful for any person to fail to comply with any rule promulgated under Section 6 of TSCA, 15 U.S.C. §2605.

2. The PCB regulations were promulgated pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e).

3. The PCB regulations "establish prohibitions of, and requirements for, the manufacturing, processing, distribution in commerce, use, disposal, storage, and marking of PCBs and PCB Items." 40 C.F.R. § 761.1(a).

4. Respondent is a "person" as defined by 40 C.F.R. § 761.3 and as such is subject to TSCA and the regulations promulgated thereunder.

5. Respondent is a political subdivision of the Commonwealth of Massachusetts.

6. Respondent owns and controls real property, which is the subject of this action, and is located in the City of New Bedford, Massachusetts (the "Site"). The property is located on Hathaway Boulevard and is further identified on the New Bedford Tax Assessors Maps 75; 69 as plat nos. 209-228; 292-342; 167-174; 177-184; 125-132; 135-142, and is recorded with the Bristol County Registry of Deeds in Books 849; 885, at Pages 329; 401.

7. At some point prior to the late 1980s, PCB-contaminated material that consisted of,

among other things, ash, construction and demolition debris, glass and brick, was excavated from a City of New Bedford "burn dump" located across the street from the Site. That excavated material was then stockpiled by Respondent at the Site.

8. At some point between the late 1980s and early 1990s, the stockpiled material referenced in paragraph 7, above, was spread out and graded at the Site by Respondent for the purpose of constructing athletic fields.

9. On or about [dates] Respondent conducted analytical sampling of soil at the Site. The sampling was conducted by Respondent in preparation for planned excavation of soils for the installation of utilities associated with a public school building Respondent plans to construct at the Site. Analytical results of the sampling indicated PCBs were present at concentrations ranging from non-detect to 50 ppm or greater.

## **B. ALLEGATIONS**

10. EPA alleges that, as a result of the activities referenced in paragraphs 7 through 9, above, Respondent violated Section 6(e) of TSCA and the PCB regulations.

11. EPA alleges that Respondent diluted PCB Remediation Waste (as defined at 40 C.F.R. §761.3) without a TSCA PCB disposal approval or in compliance with the requirements of 40 C.F.R. §761.79, as required by 40 C.F.R. §761.20(c)(iii).

12. EPA alleges that Respondent improperly disposed of the PCB Remediation Waste referenced in paragraphs 7 through 9, above, and failed to comply with the PCB Remediation Waste cleanup requirements found at 40 C.F.R. §761.61.

C. TERMS OF SETTLEMENT

13. Section 16(a) of TSCA, together with the Civil Monetary Penalty Inflation Rule (see Pub. L. 104-134 and 40 C.F.R. Part 19), authorize the assessment of a civil administrative penalty of up to \$27,500 per day for each violation. Based on the violations alleged in paragraphs 10 through 12, above, and taking into account the penalty assessment criteria of Section 16(a) of TSCA, EPA has proposed to assess a civil penalty of \$27,500.

14. The provisions of this CAFO shall apply to and be binding on EPA and on Respondent, its officers, directors, successors and assigns.

15. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO. Respondent waives any defenses it might have as to jurisdiction and venue; and, without admitting or denying the factual allegations contained in this CAFO, consents to its terms.

16. Respondent hereby waives its right to contest any issue of law or fact set forth in the Consent Agreement and its right to appeal the Final Order accompanying this Consent Agreement.

CLEANUP OF UTILITY CORRIDORS

17. Respondent shall perform a cleanup of the PCB contamination located in the utility corridors at the Site, in accordance with the Work Plan dated [ ] (the "Work Plan"). The Work Plan is included as Attachment 1 to this CAFO and is hereby incorporated by reference. Respondent certifies that it has provided adequate notice to the public before it will commence the



PCB cleanup of the utility corridors.

18. On or before [date] Respondent shall complete the PCB cleanup of the utility corridors, in accordance with the Work Plan.

19. Within 30 days of the completion of PCB cleanup of the utility corridors, Respondent shall submit a certification to EPA Region 1, at the address provided below, signed by a city official authorized to do so on behalf of the City of New Bedford, that the cleanup work of the utility corridors has been completed in accordance with the provisions of this Consent Agreement and the Work Plan. The certification shall include copies of PCB waste shipment manifests, bills of lading, and any certificates of disposal received as of the date of certification. All submissions required by this Order shall be sent to:

Kimberly Tisa, PCB Coordinator  
U.S. Environmental Protection Agency  
One Congress Street, Suite 1100 (CPT)  
Boston, MA 02114-2023  
(617) 918-1248  
FAX (617) 918-1291

CLEANUP OF REMAINDER OF THE SITE

20. On or before [date] Respondent shall submit, in accordance with 40 CFR 761.61(c), a risk-based disposal work plan to address cleanup of the remainder of the Site (i.e., all areas of the Site excluding the utility corridors referenced in section B. i), above). Respondent acknowledges that EPA intends to make this work plan available to the public for review and comment before EPA makes a final determination as to the sufficiency of the work plan.



21. On or before [date] Respondent shall complete a PCB cleanup of the remainder of the Site (i.e., all areas of the Site excluding the utility corridors referenced in section B. i), above), in accordance with risk-based disposal work plan, only after the plan is approved by EPA Region 1.

22. Within 30 days of the completion of PCB cleanup of the remainder of the Site (i.e., all areas of the Site excluding the utility corridors referenced in section B. i), above), Respondent shall submit a certification to EPA Region 1, at the address provided in paragraph 19 above, signed by a city official authorized to do so on behalf of the City of New Bedford, that the cleanup work of the remainder of the Site (i.e., all areas of the Site excluding the utility corridors referenced in section B. i), above) has been completed in accordance with the provisions of this Consent Agreement and the risk-based disposal work plan, only after the plan is approved by EPA Region 1. The certification shall include copies of PCB waste shipment manifests, bills of lading and any certificates of disposal received as of the date of certification.

23. Pursuant to Section 16 of TSCA, and taking into account the facts recounted in this Consent Agreement and such other circumstances as justice may require, EPA has determined that it is fair and proper to assess a civil penalty for the violations alleged in this CAFO in the amount of twenty-seven thousand, five hundred dollars (\$27,500).

24. Respondent shall pay the penalty of twenty-seven thousand, five hundred dollars (\$ 27,500) within thirty (30) days of the date this Consent Agreement and Final Order is signed by the EPA Regional Judicial Officer.

25. Respondent shall pay the penalty by submitting a certified or cashier's check to the

order of the "Treasurer, United States of America" and in the required amount to:

EPA - Region 1  
P.O. Box 360197M  
Pittsburgh, PA 15251

Respondent shall note the case name and docket number of this action on the check, and

shall provide copies of the check to:

Regional Hearing Clerk  
U.S. Environmental Protection  
Agency, Region 1  
Suite 1100, Mail Code RCH  
One Congress Street  
Boston, MA 02114-2023

and

Gregory Dain  
Senior Enforcement Counsel  
U.S. Environmental Protection  
Agency, Region I  
Suite 1100, Mail Code SEL  
One Congress Street  
Boston, MA 02114-2023

26. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty if it is not paid within thirty (30) calendar days of the entry of the

Consent Agreement and Final Order. Pursuant to Section 309(g)(9), 33 U.S.C. §1319(g)(9), a failure by Respondent to pay the penalty assessed by the Consent Agreement and Final Order in full by its due date shall subject the Respondent to a civil action to collect the assessed penalty, plus interest at current prevailing rates from the date of the final order. The rate of interest assessed shall be at the rate set forth in 31 C.F.R. § 901.9(d), promulgated under 31 U.S.C. §3717. Any person who fails to pay on a timely basis the amount of an assessed penalty shall be required to pay in addition to such amount and interest, attorney's fees, costs for collection proceedings, and an quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter. In an such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

27. The civil penalty under this CAFO, and any interest, nonpayment penalties and charges described in this CAFO, shall represent penalties assessed by EPA and shall not be deductible for purposes of federal taxes.

28. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16(a) of TSCA for the violations alleged in this CAFO. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA for matters not addressed in this CAFO, and it is the responsibility of Respondent to comply with all applicable provisions of federal, state or local law. EPA reserves all its other criminal and civil enforcement authorities, including the authority

to seek injunctive relief and the authority to address imminent hazards.

29. The parties shall bear their own costs and fees in this action.

30. The undersigned representative of the Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and to execute and legally bind Respondent to it.

For Respondent:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

For Complainant:

---

Joel Blumstein  
Acting Manager, Enforcement Unit  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency, Region 1

---

Date

**C. FINAL ORDER**

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. The Respondent is ordered to comply with the terms of the above Consent Agreement, effective immediately.

---

Sharon Wells  
Regional Judicial Officer  
U.S. Environmental Protection Agency, Region 1

---

Date